

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

**Granville R. Jones and
Teresa Z. Jones**

Case No. 09-80319
Chapter 13

Soc. Sec. Nos. xxx-xx-9445 & xxx-xx-8144
Mailing Address: 5001 Bridgewood Drive, Durham, NC
27713

Debtors.

MOTION TO INCUR INDEBTEDNESS

NOW COME the Debtors, by and through the undersigned attorney, pursuant the Confirmation Order and local rule and custom, requesting permission to incur indebtedness, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtors have filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on February 26, 2009.
2. The Debtors have been approved by **Santander Consumer Usa Inc.** to incur indebtedness.
3. This motion is being made so that the Debtors may incur indebtedness to purchase a 2007 Dodge Grand Caravan.
4. The Debtors have previously filed a motion to substitute collateral, which was granted by this court on August 24, 2010. However, unbeknownst to Debtors or Debtors' counsel, the lienholder had already received the insurance proceeds from the Debtors' insurance company. As such, the Debtors are still in need of a replacement vehicle.
5. The terms of the new loan shall not exceed the following:
 - a. Amount of the new loan: \$19,500.00
 - b. Interest rate for the new loan: 16%
 - c. Monthly payment for the new loan: \$422.99
 - d. Length of the new loan: 72 months
6. The Debtors will be able to afford this new loan for the following reasons:
 - a. The Debtors have had an automobile accident and their 2005 Chrysler Town & Country was declared a total loss.
 - b. The Debtors will be filing a concurrent motion to modify their plan and surrendering said totalled vehicle to the lienholder, Wachovia Dealer Services.

7. That the Debtors believe the proposed to be in the best interest of the Debtors to incur indebtedness for the following reason(s)
 - a. The Debtors need an additional vehicle to provide transportation for their continued employment and also for the care and support of their household.
8. The proposed indebtedness will not affect the ability of the Debtors to successfully complete the Chapter 13 plan.
9. The proposed indebtedness does not adversely affect the interests of the bankruptcy estate.
10. That \$250.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtors concerning the proposed new loan, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with the financier for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the new indebtedness, extra follow-up to make sure that the ensuing order is obtained and transmitted to the Debtors and financier in a timely fashion to avoid delaying the consummation of the loan. It is anticipated, based on many past experiences, that it will take approximately 2 hours of attorney time to attend to said details. The \$250.00 also takes into account the **substantial risk** inherent in all loan situations that undersigned attorney will perform these services and not get paid because, for one reason or another, the loan falls through.

WHEREFORE, the Debtors respectfully pray that the Court allow the Debtors to incur said indebtedness, approve and direct payment out of the proceeds of such loan a reasonable attorney fee or in the event that the new loan falls through, allow payment of the attorney fee through the Debtors' Chapter 13 plan, and grant such other and further relief as to this Court seems just and proper.

Dated: August 30, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

Edward Boltz

N.C. State Bar No.:23003
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(purchase.wpt rev. 11/5/09)

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Mailing Address: 3418 Angus Road, Durham, NC 27705
Debtors.

CERTIFICATE OF SERVICE

I, Koury Hicks, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on August 30, 2010, I served copies of the **Motion to Incur Indebtedness** and **Motion For Expedited Hearing and To Shorten Time For Notice**, electronically or, when unable, by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II
Chapter 13 Trustee

Santander Consumer Usa Inc.
Financier
8585 N. Stemmons Freeway Suite 1100-N
Dallas , TX 75247-

Michael West
Bankruptcy Administrator

Granville R. Jones & Teresa Z. Jones
3418 Angus Road
Durham, NC 27705

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

/s Koury Hicks

Koury Hicks